

**CHAPTER NO. 846****HOUSE BILL NO. 2249**

**By Representatives Curtiss, Walker, Fraley, Matheny, Harmon, Todd, Kent, Overbey**

**Substituted for: Senate Bill No. 2134**

**By Senators Cooper, Clabough, McNally, Harper, Fowler**

AN ACT to amend Tennessee Code Annotated, Title 49 and Title 68, relative to the safety of certain group residences authorized by the state.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 68-11-213, is amended by adding the following new subsections as subsections (b) through (g), and renumbering the remaining subsections accordingly:

(b) Based upon a complaint that a home for the aged, assisted care living facility or alcohol and drug treatment center, subject to licensure under this part may be operating without a license, the department, with consent of an owner, operator, manager, or person who participates in the operation, or patient or resident, or the guardian of such patient or resident, may enter the facility in order to investigate or inspect the complaint, for the necessity of or compliance with licensure under this part.

(c) If consent is not obtained and the area sought to be inspected is a closed or non public area, right of entry and inspection shall not be made by the department unless a civil warrant, upon probable cause, is first obtained authorizing such entry or inspection.

(d) Inspections conducted pursuant to this section shall be conducted in a manner so as to minimize disruption.

(e) If a determination is made by the department that a home for the aged, assisted care living facility or alcohol and drug treatment center is subject to the requirements of licensure under this part, a notice will be issued by the department stating the same and requiring that application for licensure shall be made to the department within thirty (30) days of the receipt of that notice. The thirty (30) day application period does not serve to waive any and all civil penalties which may be assessed for unlicensed operation of a facility under this part.

(f) Failure of the home for the aged, assisted care living facility or alcohol and drug treatment center to make application to the department for licensure within thirty (30) days from the date of the receipt of the notice may result in the initiation of injunctive relief and any other relief available in law or equity against any person who owns, operates, manages or participates in the management of the same.

(g) In addition to requiring that the home for the aged, assisted care living facility or drug treatment center make application for licensure, the department may immediately initiate a petition for injunctive relief or any other relief available in law or

equity. The department may recommend and direct the home for the aged, assisted care living facility, or alcohol and drug treatment center to immediately cease and desist operations when the health, safety, or welfare of the patients or residents requires emergency action.

SECTION 2. This act shall take July 1, 2005, the public welfare requiring it.

**PASSED: May 20, 2004**



JIMMY RAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES



JOHN S. WILDER  
SPEAKER OF THE SENATE

**APPROVED this 8<sup>th</sup> day of June 2004**



PHIL BREDESEN, GOVERNOR